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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,247	09/14/2001	Mikko Puuskari	P- 281450	2288

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EXAMINER	
HOM, SHICK C	

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
05/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/869,247	PUUSKARI, MIKKO	
	Examiner	Art Unit	
	Shick C. Hom	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/16/07 have been fully considered but they are not persuasive.

In response to applicant's argument in page 1 lines 16-18 of the remarks that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a general packet radio service system that utilizes response messages to a request to create a packet data protocol PDP context) are not clearly recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In page 2 lines 6-12 of the remarks, applicant argued that Li does not teach or suggest defining at least one condition for a first gateway support node, so that when the condition is fulfilled, a second gateway support node is more suitable for transmitting packets and as a result detecting, by the first gateway node, that such a condition fulfilled, and instructing, by the first gateway node, to select the second gateway support node by sending a first message indicating the second gateway

support node is not persuasive because col. 11 line 30 to col. 12 line 9 describe the gateway node S-A3, i.e. first gateway node, determining that the dialed number DN is not served within its domain, i.e. the defined condition for the first gateway node, selecting gateway node S-A4, i.e. the second gateway node, being more suitable for transmitting packets clearly reads on the gateways, the condition fulfilled, and method as claimed.

In response to applicant's arguments in page 2 line 13 to page 3 line 8, against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United

States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 14, 20-21, 24, and 28-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Li et al. (6,535,507).

Regarding claims 1, 14, 20-21, 24, and 28-29:

Li et al. disclose a method comprising: defining at least one condition for a first gateway support node, so that when the condition is fulfilled, the second gateway support node is more suitable for transmitting packets, detecting, by the first gateway node that the condition is fulfilled, and instructing by the first gateway node to select the second gateway support node by sending a first message indicating the second gateway support node (Fig. 1, show the gateway node S-A4 and gateway node S-B1 which corresponds to the first and second gateway support node, respectively, and col. 11 line 30 to col. 12 line 9 recite gateway S-A4 upon receiving the message, examines the content objects for any information which it does not possess in its routing tables, i.e. to determine the condition whereby gateway node S-B1 is more suitable for transmitting the message, adds its content object and forwards the message to the selected gateway node S-B1 clearly reads on the first gateway support

node detecting a defined condition being fulfilled and selecting the second gateway support node as claimed).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2-3, 5, 7-13, 15-19, 22-23, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. (6,535,507) in view of Holt et al. (6,070,192).

For claims 2-3, 5, 7-13, 15-20, 22-23, and 25-27, Li et al. disclose the system and method described in paragraph 3 of this office action. Li et al. disclose all the subject matter of the claimed invention with the exception of establishment of the tunnel as recited in claims 10, 17, 22, 25;

receiving in the first gateway a second message which indicates that a tunnel for transmitting packets between the subscriber and an external data network is to be established

between the serving node and the first gateway, checking said condition, and transmitting a first message to the serving node if said condition is fulfilled, or establishing a tunnel if said condition is not fulfilled as in claims 2, 12, 15, 23; wherein

if the tunnel is established between the serving node and the first gateway, the method further comprises the steps of: detecting a change in operating conditions in the first gateway, checking said condition, and performing the next steps if said condition is fulfilled: transmitting a fourth message indicating said second gateway to the serving node, waiting for an acknowledgement to said fourth message, receiving the acknowledgement, and removing the tunnel in the first gateway in response to a positive acknowledgement as in claims 3, 5, 7-9, 13, 16, 18, 19, 26-27; and wherein

the telecommunications system comprises a database where information on the second gateway defined for the first gateway is maintained, and the first gateway is arranged to retrieve the most suitable second gateway from the database when the predefined condition is fulfilled as in claim 11.

Holt et al. from the same or similar fields of endeavor teach that it is known to provide the step of further receiving in the first gateway a second message which indicates that a tunnel for transmitting packets between the subscriber and an

external data network is to be established between the serving node and the first gateway, checking said condition, and transmitting a first message to the serving node if said condition is fulfilled, or establishing a tunnel if said condition is not fulfilled (col. 5 lines 7-17 recite the controller selecting a gateway whereby a tunnel already exist before establishing one clearly anticipate the step of using a tunnel for transmitting packets if condition is fulfilled or establishing a tunnel if condition is not fulfilled); wherein

if the tunnel is established between the serving node and the first gateway, the method further comprises the steps of: detecting a change in operating conditions in the first gateway, checking said condition, and performing the next steps if said condition is fulfilled: transmitting a fourth message indicating said second gateway to the serving node, waiting for an acknowledgement to said fourth message, receiving the acknowledgement, and removing the tunnel in the first gateway in response to a positive acknowledgement (col. 11 line 66 to col. 12 line 26 recite the call being released whereby a connection release indication is send to the network controller to which the controller responds with an acknowledgement message clearly anticipate the step of detecting a change in operating

conditions and transmitting, receiving the acknowledgment and removing the tunnel); and wherein

the telecommunications system comprises a database where information on the second gateway defined for the first gateway is maintained, and the first gateway is arranged to retrieve the most suitable second gateway from the database when the predefined condition is fulfilled (col. 12 line 64 to col. 13 line 14 recite storing the call information and using the stored information for connection control clearly reads on the database for maintaining the defined information).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide For the establishment of the tunnel; receiving in the first gateway a second message which indicates that a tunnel for transmitting packets between the subscriber and an external data network is to be established between the serving node and the first gateway, checking said condition, and transmitting a first message to the serving node if said condition is fulfilled, or establishing a tunnel if said condition is not fulfilled; wherein if the tunnel is established between the serving node and the first gateway, the method further comprises the steps of: detecting a change in operating conditions in the first gateway, checking said condition, and performing the next steps

if said condition is fulfilled: transmitting a fourth message indicating said second gateway to the serving node, waiting for an acknowledgement to said fourth message, receiving the acknowledgement, and removing the tunnel in the first gateway in response to a positive acknowledgement; and wherein the telecommunications system comprises a database where information on the second gateway defined for the first gateway is maintained, and the first gateway is arranged to retrieve the most suitable second gateway from the database when the predefined condition is fulfilled as taught by Holt et al. in the communications system and method of Li et al.

The establishment of the tunnel; the step of receiving in the first gateway a second message which indicates that a tunnel for transmitting packets between the subscriber and an external data network is to be established between the serving node and the first gateway, checking said condition, and transmitting a first message to the serving node if said condition is fulfilled, or establishing a tunnel if said condition is not fulfilled; wherein if the tunnel is established between the serving node and the first gateway, the method further comprises the steps of: detecting a change in operating conditions in the first gateway, checking said condition, and performing the next steps if said condition is fulfilled: transmitting a fourth

message indicating said second gateway to the serving node, waiting for an acknowledgement to said fourth message, receiving the acknowledgement, and removing the tunnel in the first gateway in response to a positive acknowledgement; and wherein the telecommunications system comprises a database where information on the second gateway defined for the first gateway is maintained, and the first gateway is arranged to retrieve the most suitable second gateway from the database when the predefined condition is fulfilled can be implemented by providing the technique of establishment and removing of tunneling of Holt et al. to the gateway software of Li et al.

The motivation for using the technique of tunneling as taught by Holt et al. in the communication system and method of Li et al. being that it provides more efficiency and reliability for the system since the system can provide a secure, temporary path over the network in case of congestion or no path being available in the network.

6. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. (6,535,507) in view of Lager et al. (6,636,502).

For claims 4 and 6, Li et al. and disclose the system and method described in paragraph 3 of this office action. Li et al. disclose all the subject matter of the claimed invention with the exception of selecting gateway support nodes in a GPRS system and the messages being response messages to a create PDP context request as in claims 4 and 6.

Lager et al. from the same or similar fields of endeavor teach that it is known to select gateway support nodes in a GPRS system and the messages being response messages to a create PDP context request (see the abstract, col. 1 lines 8-15, and col. 4 lines 7-18 recite selecting gateway GPRS support node accessed by the packet data network due to evaluation of PDP address used to tunnel protocol PDUs to the current point of attachment of the mobile station).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the step of selecting gateway support nodes in a GPRS system and the messages being response messages to a create PDP context request as taught by Lager et al. in the communications method and system of Li et al. The gateway support nodes in a GPRS system and the messages being response messages to a create PDP context can be implemented by substituting the gateways

support nodes in a GPRS system and using the PDP messages of Lager et al. for the gateways, system and protocol of Li et al.

The motivation for using gateway support nodes in a GPRS system and the messages being response messages to a create PDP context as taught by Lager et al. in the communication method and system of Li et al. being that it provides more efficiency for the system since the system uses a know standard protocol and the added desirable feature of wireless communication.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated

from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SH SH

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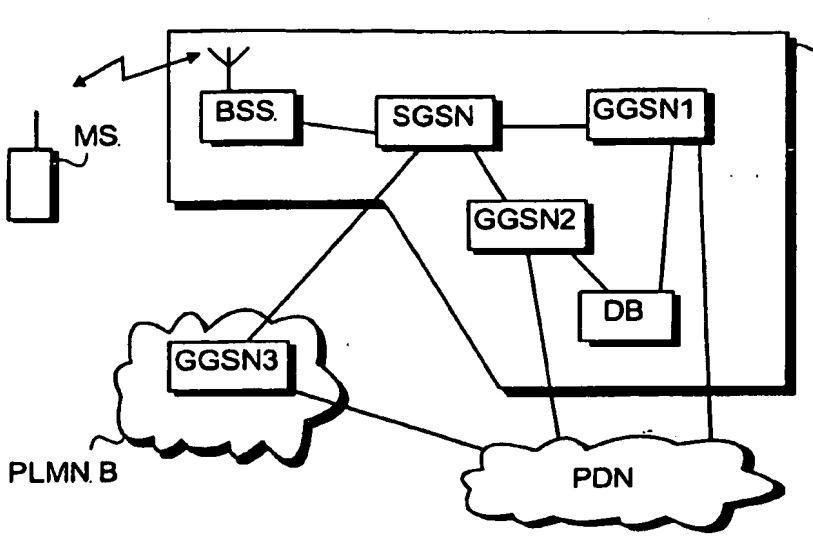

FIG.1
(PRIOR ART)

O.K. to enter SH

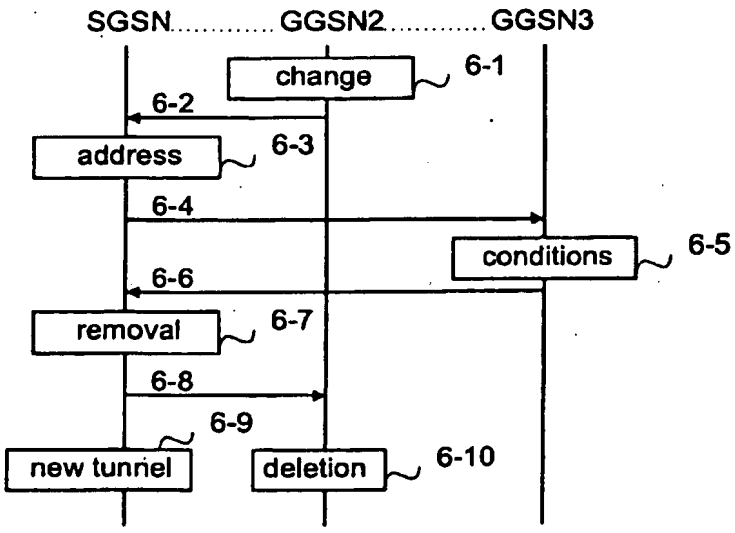

FIG.6